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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,652	01/21/2004	Mark Stuart Day	CIS03-55(8097)	3411
47654	7590	10/04/2006	EXAMINER	
DAVID E. HUANG, ESQ. BAINWOOD HUANG & ASSOCIATES LLC 2 CONNECTOR ROAD SUITE 2A WESTBOROUGH, MA 01581			TRAN, NGHI V	
		ART UNIT	PAPER NUMBER	
		2151		

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/761,652	DAY, MARK STUART	
	Examiner Nghi V. Tran	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8,10-13,15-24,26,28-31 and 33-38 is/are rejected.
- 7) Claim(s) 7,9,14,25,27 and 32 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>05/31/2005</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 12-13, 15, 17-23, 30-31, 33, and 35-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Major et al., United States Patent Number 6,993,508 (hereinafter Major).

4. With respect to claims 1, 15, 17-19, 33, and 35-38, Major teaches in a data processing device [i.e. a web browser 220], a method supporting access to stored information [see abstract and figs. 1-3], the method comprising:

- receiving user-selected content data from a remote source over a network in response to a user initiated content data selection [i.e. allows consumers to browse through entertainment content, select the content to be viewed, col.3, Ins.22-62];
- storing the user-selected content data in a storage location associated with the data processing device [i.e. each selection made by the consumer may be "added to a cart", col.3, Ins.22-62]; and
- enabling access to a first portion of the received user-selected content data in the storage location for selective retrieval, while disabling access to a second portion of the received user-selected content data in the storage location [col.6, ln.30 through col.7, ln.58 and col.10, Ins.4-63].

5. With respect to claims 2 and 20, Major further teaches wherein receiving user-selected content data from the remote source includes: receiving a portion of user-selected content data from the remote source in response to a user retrieving previously stored user-selected content data from the storage location [i.e. play list manager 224, col.7, Ins.7-10 and col.3, Ins.22-62].

6. With respect to claims 3 and 21, Major further teaches further comprising: providing notification to a user of only the portion of user-selected content data in the storage location that is available to the user for retrieval [i.e. the consumer is notified via the browser 220 when the content is available for viewing, col.6, Ins.47-60].

7. With respect to claims 4 and 22, Major further teaches wherein receiving user-selected content data from the remote source includes receiving the user-selected content data via use of a non-real-time data communication protocol [col.6, Ins.30-46], the method further comprising: in response to receipt of a user playback command, transmitting a stream of data associated with the user-selected content data in the storage location to a playback device via use of a real-time data communication protocol [i.e. operates to download and stage the copy-righted digital content on the viewing system of a consumer, col.3, Ins.7-62 and col.10, Ins.4-63].

8. With respect to claims 5 and 23, Major further teaches wherein receiving user-selected content data from the remote source includes receiving at least a portion of the user-selected content data via use of a non-real-time data communication protocol [col.6, Ins.30-46], the method further comprising: in response to receipt of a user playback command, transmitting a data stream based on the user-selected content data stored in the storage location to a playback device via use of a real-time data communication protocol; detecting that a contiguous portion of data associated with the data stream is not stored in the storage location; and transmitting the contiguous portion of data associated with the data stream to the playback device via use of a real-time data communication protocol from the remote source instead of from the storage location in order to play back uninterrupted content data [col.3, Ins.7-62 and col.10, Ins.4-63].

9. With respect to claim 12, Major further teaches further comprising: receiving input from the user specifying a bandwidth constraint for receiving user-selected content data over the network from the remote source for storage in the storage location; and limiting a network bandwidth allocated for transmission of the user-selected content data from the remote source over the network depending on the specified bandwidth constraint [col.2, Ins.4-58].

10. With respect to claim 13, Major further teaches further comprising: providing a time limit in which the user may selectively retrieve the user-selected content data from the storage location [i.e. 10 minutes of the current position, col.7, Ins.26-46].

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 16 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Major as applied to claims 15 and 33 above.

13. With respect to claims 16 and 34, Major does not explicitly show receiving a prioritized list of preferred user-selected content data to be delivered for storage in the storage device associated with the user generating the selection information, the user-selected content data stored in the storage device being a subset of requested content data identified in the prioritized list. However, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Major by receiving a prioritized list of preferred user-selected content data to be delivered for storage in the storage device associated with the user generating the selection information because this feature enables user to select content data in a priority.

14. Claims 6, 8, 10-11, 24, 26, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Major as applied to claims 1 and 19 above, and further in view of Robbin et al., United States Patent Application Publication Number 2003/0079038 (hereinafter Robbin).

15. With respect to claims 6, 8, 10, 24, 26, and 28, Major further teaches further comprising: generating a graphical user interface for displaying an itemized list of accessible user-selected content data in the storage location [col.6, Ins.30-46], the accessible user-selected content data being selectively retrieved by a user for playback in real-time [col.3, Ins.7-62 and col.10, Ins.4-63].

However, Major does not explicitly show receiving input from the user identifying a de-selected content item in the itemized list of available content data; disabling user

access to user-selected content data in the storage location associated with the de-selected content item; and enabling user access to a different portion of user-selected content data in the storage location previously inaccessible to the user.

In a data processing device, Robbin discloses or suggests receiving input from the user identifying a de-selected content item in the itemized list of available content data; disabling user access to user-selected content data in the storage location associated with the de-selected content item; and enabling user access to a different portion of user-selected content data in the storage location previously inaccessible to the user [paragraphs 0054-0057].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Major in view of Robbin by de-selecting content item in the itemized list of available content data because this feature is not to be stored to the media device [Robbin, paragraph 0055]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to remove those media items stored on the media device [Robbin, paragraph 0057].

16. With respect to claims 11 and 29, Major further teaches receiving input from the user specifying a time constraint for receiving the user-selected content data from the remote source for storage in the storage location; and receiving the user-selected content data over the network for storage in the storage location depending on the specified time constraint [i.e. 10 minutes of the current position, col.7, Ins.26-46].

***Allowable Subject Matter***

17. Claims 7, 9, 14, 25, 27, and 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. "Online digital video signal transfer apparatus and method," by Sherr et al., United States Patent Application Publication Number 2006/0053066.
- b. "Approach for renting items to customers," by Hastings et al., United States Patent Number 7,024,381.
- c. "Video rental e-commerce solution," by Al-Azzawe, United States Patent Application Publication Number 2002/0169656.
- d. "Method of processing rental request and returns," by Gross, United States Patent Application Publication Number 2006/0149685.
- e. "System and method for securely distributing digital content for short term use," by Javed, United States Patent Application Publication Number 2001/0036271.
- f. "Music recommendation system and method," Hicken et al., United States Patent Application Publication Number 2005/0038819.

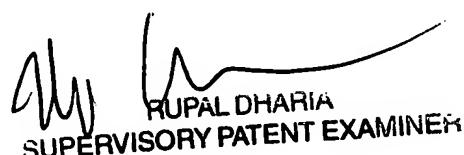
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Thursday and every other Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi V Tran  
Patent Examiner  
Art Unit 2151

September 26, 2006



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